

Internal Revenue Service

Number: **201408027**
Release Date: 2/21/2014
Index Number: 1362.01-03

Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
_____, ID No. _____
Telephone Number: _____

Refer Reply To:
CC:PSI:B01
PLR-140648-13
Date:
November 15, 2013

Legend

X =

Date =

State =

Dear _____:

This responds to a letter dated August 21, 2013, and subsequent correspondence, submitted on behalf of X, requesting relief under section 1362(b)(5) of the Internal Revenue Code (the Code).

FACTS

X was incorporated under the laws of State on Date. X's sole shareholder intended that X elect to be treated as an S corporation effective Date. However, Form 2553, Election by a Small Business Corporation, was not timely filed.

LAW AND ANALYSIS

Section 1362(a) of the Code provides that a small business corporation may elect to be treated as an S corporation.

Section 1362(b) of the Code provides guidance on when the S election becomes effective. If an S election is made within the first two and one-half months of a

corporation's taxable year, then the corporation will be treated as an S corporation for the year in which the election is made. If the corporation makes an election after the first two and one-half months of a corporation's taxable year, then the corporation will generally not be treated as an S corporation until the following taxable year.

Section 1362(b)(5) of the Code provides that if no election is made pursuant to section 1362(a), or if the election is made after the date prescribed for making such an election, and the Secretary determines there was reasonable cause for the failure to timely make the election, then the Secretary may treat such election as timely made for such taxable year and effective as of the first day of that year.

X did not file a timely election to be treated as an S corporation under section 1362(a). X has, however, established reasonable cause for not making a timely election. Therefore, X is entitled to relief under section 1362(b)(5).

CONCLUSION

Based solely on the facts submitted and representations made, and provided that X otherwise qualifies as a subchapter S corporation, we conclude that X will be recognized as an S corporation effective Date. An original Form 2553 along with a copy of this letter must be submitted to the relevant Service Center within 120 days from the date of this letter.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Sincerely,

David R. Haglund

David R. Haglund
Branch Chief, Branch 1
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter

Copy of this letter for section 6110 purposes

cc: